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[Additional counsel identified on signature page in accordance with Local Rule 3-4(a)(1)]

Attorneys for Plaintiff Federal Trade Commission

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MICROSOFT CORP.

and

ACTIVISION BLIZZARD, INC.,

Defendants.

Case No. 3:23-cv-2880-JSC

**PLAINTIFF FEDERAL TRADE
COMMISSION'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED**

Dept.: Courtroom 8
Judge: Honorable Jacqueline Scott Corley

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL SHOULD BE SEALED
CASE NO. 3:23-CV-2880-JSC

Pursuant to Civil Local Rules 7-11 and 79-5(f), Plaintiff, the Federal Trade Commission, respectfully submits this Administrative Motion to Consider Whether Another Party's Material Should be Sealed in connection with Plaintiff's First Supplement to its Exhibit List.

Certain portions of Plaintiff's First Supplement to its Exhibit List contain information that was obtained during the course of litigation discovery in *In the matter of Microsoft Corp. and Activision, Blizzard, Inc.*, before the United States of America Federal Trade Commission Office of Administrative Law Judges, Docket No. 9412, and that the producing party designated as Confidential pursuant to the Protective Order Governing Confidential Material entered on December 9, 2022 ("Administrative Protective Order"). As detailed below, Plaintiff reasonably expects the producing party may file confidentiality declarations in support of sealing as required by Local Rule 79-5. Accordingly, Plaintiff seeks to file under seal:

PX#	Description	Docket Entry
PX1555	Document Description	held for L.R. 79-5(f) declaration
PX2086	Document Description	held for L.R. 79-5(f) declaration
PX3224	Document Description	held for L.R. 79-5(f) declaration
PX4344	Document Description	held for L.R. 79-5(f) declaration

Materials and documents may be provisionally filed under seal pursuant to Civil Local Rule 79-5(f) when the document, or portions thereof, "has been designated as confidential by another party or non-party." L.R. 79-5(f).

Plaintiff has redacted the above-referenced yellow-highlighted portions of Plaintiff's First Supplement to its Exhibit List because Microsoft Corporation ("Microsoft") has not yet had an opportunity to designate the information contained therein as confidential pursuant to L.R. 79-5(f). *See* Microsoft's Administrative Motion Seeking *In Camera* Treatment of Certain Exhibits Pursuant to Civil L.R. 7-11 and 79-5 (Dkt. No. 150).

Plaintiff has redacted the above-referenced pink-highlighted portions of the FTC Exhibit List because Nintendo of America Inc. ("Nintendo") has not yet had an opportunity to designate the information contained therein as confidential pursuant to L.R. 79-5(f). *See* Non-Party Nintendo of America Inc. Statement Pursuant to Local Rule 79-5 As To Why Its Confidential

Information Should Be Filed Under Seal (Dkt. No. 168); *see also* Non-Party Nintendo of America Inc. Unopposed Motion for Order Changing Time (Dkt. No. 136).

Plaintiff takes no position on the merits of sealing Microsoft's, Activision's, and non-parties' designated material.

In compliance with Civil Local Rule 79-5(d), the unredacted version of the FTC Exhibit List accompanies this Administrative Motion. In accordance with Local Rule 7-11, Plaintiff has also filed a Proposed Order herewith

Dated: June 23, 2023

Respectfully submitted,

/s/ Jennifer Fleury

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